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March 30, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, N.W.
Washington, DC 20554

RE: MM Docket No. 97-217 **EX PARTE PRESENTATION**

Dear Ms. Salas:

On March 29, 1999, representatives of the Catholic Television Network ("CTN") met with Charles Dziedzic, Clay Pendarvis, David Roberts, Michael Jacobs, Keith Larson and Joseph Johnson of the Mass Media Bureau to discuss certain issues raised by CTN in its "Petition for Reconsideration and Clarification" of the Report and Order in the above-referenced docket. Representing CTN were:

Monsignor Michael J. Dempsey, Diocese of Brooklyn
David Moore, Archdiocese of Los Angeles
Robert W. Denny, Jr., Denny & Associates, P.C.
Edwin N. Lavergne, Shook, Hardy & Bacon, LLP
James Morgan, Shook Hardy & Bacon, LLP
Michael G. Grable, Crowell & Moring LLP
William D. Wallace, Crowell & Moring LLP

CTN presented argument as outlined on the attached agenda. In addition, CTN expressed support for permitting the filing of applications for new and major modifications to ITFS facilities in the same initial window as applications for two-way ITFS and MDS station authorizations.

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Pursuant to Section 1.1206(b)(2) of the Commission's Rules, two copies of this letter and the enclosure are being submitted to the Secretary for inclusion in the public record of the above-referenced docket.

Respectfully submitted,


William D. Wallace

Enclosure

cc: Charles Dziedzic
Clay Pendarvis
David Roberts
Michael Jacobs
Keith Larson
Joseph Johnson

AGENDA
Ex Parte Presentation By The Catholic Television Network
March 29, 1999
(MM Docket No. 97-217)

- I. The Commission should clarify the procedures for responding to complaints of interference. Clarification is necessary to give meaning to the requirement that hub licensees “promptly remedy or immediately cease operations” when interference occurs.**
- **Documented Complaint.** A “documented complaint” should include (i) a certification by the complainant that it made a good-faith effort to resolve the interference with the licensee of the allegedly interfering transmitter, and (ii) evidence of causation such as an engineering study or a videotape of an on/off test. Upon receipt of a “documented complaint” the licensee of the interfering facility should be required to shut the facility down within one business day.
 - **Notice of Complaint of Interference.** Because it may not always be possible to document the source of interference, the Commission should adopt an alternate complaint procedure called a “Notice of Complaint of Interference.” A licensee that receives such a notice would have three business days to prove that it is not causing the interference or else it must shut the interfering facility down.
 - **Complaints Should Be Resolved in Days, Not Weeks.** The Commission should not adopt complaint-resolution proposals which would place the burden on ITFS licensees to suffer from interference for weeks or months while a problem is being resolved. Thus, the Commission should adopt CTN’s expedited complaint resolution proposal rather than the proposals advanced by BellSouth and the San Francisco-San Jose Consortium.
 - **BFO Interference Should Be Included.** The existing two-way rules do not permit a licensee to file a documented complaint of interference if the licensee experiences brute force overload (“BFO”) interference. Instead, the existing rules apply only to co-channel and adjacent-channel interference. This is a glaring gap that needs to be corrected. BFO interference results in the same harm to ITFS receive sites; therefore, the same remedies should be available.

II. With a few exceptions, the Commission should retain its newly-adopted response station notification and professional installation requirements to guard against brute force overload.

- **The Existing Rule Is Narrowly Focused.** Because BFO interference occurs only in limited circumstances, the notification rule is narrowly tailored to cover only those situations where interference is likely to occur. The rule requires notification only when response stations are deployed within 1960 feet of an ITFS receive site. Similarly, the professional installation requirement helps guard against the inadvertent occurrence of BFO interference in the first instance by requiring that all response station transmitters be professionally installed. Because the Commission does not intend to review interference analyses, these rules provide critical safeguards against interference in a two-way environment.
- **Certain Exceptions May Have Merit.** Some parties have proposed exceptions to the notification and installation requirements that may have merit. Those exceptions are as follows:
 - ▶ **BFO Resistant Downconverters.** CTN does not oppose Petitioners' request to replace an ITFS licensee's existing downconverters with better equipment as an alternative to complying with the notification and professional installation requirements, *provided that* the replacement downconverters meet an agreed-upon standard for resistance to BFO.
 - ▶ **Low Power Response Transmitters.** Qualcomm requests an exemption from the notification and professional installation requirements for low power response stations operating at power levels of -6 dBW EIRP or less. CTN agrees that devices operating in this power range pose an insignificant threat of BFO.
 - ▶ **Waiver By Licensees.** CTN does not oppose Petitioners' proposal to allow individual ITFS licensees to waive receipt of notification within the 1960 foot notification zone. However, one licensee cannot waive the rights of others to receive notice. Moreover, all licensees in the area to be served must consent to a waiver of the professional installation requirements before any response stations can be so installed.

III. The Commission should clarify that it will continue to accept applications for registered receive sites of existing ITFS stations, and that the new receive sites will receive interference protection as of their filing dates.

- Several new rules suggest, without apparent analysis or explanation, that ITFS receive sites registered after September 17, 1998, may not receive interference protection. The Commission should clarify that ITFS receive sites are entitled to protection whether they are registered before or after that date. It is essential that applications for new or modified transmission facilities continue to demonstrate protection of previously registered ITFS receive sites, including those receive sites registered after September 17, 1998.